

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**SHAKINA SMITH, individually and on behalf
of all others similarly situated,**

Plaintiff,

v.

JAX LLC D/B/A GOLDEN CORRAL,

Defendant.

Case No.: 3:19-cv-00707-RJC-DCK

**JOINT MOTION REQUESTING A STAY OF LITIGATION TO PERMIT
THE PARTIES TO PARTICIPATE IN NON-BINDING MEDIATION**

Plaintiff Shakina Smith (“Plaintiff”) and Defendant Jax LLC d/b/a Golden Corral (“Defendant”) (collectively the “Parties”), respectfully request that this Court stay this litigation for ninety (90) days, up to and including a date that is ninety (90) days from the entry of an order staying this action, to enable the parties to pursue mediation without unnecessarily expending resources on concurrent litigation. In support of said Motion, the Parties state the following:

1. On December 23, 2019, Plaintiff filed her complaint in this putative collective and class action, asserting claims under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* and the North Carolina Wage and Hour Act, N.C. Gen Stat. Ann. § 95-25.1, *et seq.* (See ECF 1.)
2. On February 24, 2020, Defendant filed a Motion to Compel Individual Arbitration and to Dismiss or, in the Alternative, to Stay the Action. (See ECF 8.) On September 16, 2020, the Magistrate Judge issued a Memorandum and Recommendations on Defendant’s Motion to Compel Individual Arbitration and to Dismiss or, in the Alternative, to Stay the Action. (See ECF 26.) On September 29, 2020, Defendant filed an Objection to the Memorandum and

Recommendations, and Plaintiff replied to the objections on October 16, 2020. (*See* ECF 27; ECF 30.)

3. After initial conversations regarding engaging in potential settlement discussions, the Parties filed a Joint Motion for Protective Order on October 30, 2020, which the Court granted on November 9, 2020. *See* ECF 33-35.)

4. Recognizing the costs associated with litigation, the Parties have jointly agreed that prior to incurring additional time and expense of substantial motion practice and extensive discovery, it is in their mutual interests to focus on mediation preparation and explore potential settlement discussion rather than engaging in concurrent litigation.

5. The Parties jointly endeavor to schedule and attend a mediation and engage in settlement discussions in a good faith effort to resolve this case, which Plaintiff has pled as a collective and class action dispute.

6. A stay will not prejudice the Parties, as the Parties respectfully submit this stay to provide the Parties with the opportunity to fully prepare and pursue mediation and settlement discussion without engaging in concurrent litigation.

7. The Parties request a stay for purposes consistent with the Federal Rules of Civil Procedure or the Local Rules of this Court.

8. A proposed Order granting the requested relief is filed contemporaneously herewith.

For these reasons, the Parties respectfully request that this Court grant their Joint Motion to Stay the Litigation and stay this matter for ninety (90) days, up to and including a date that is ninety (90) days from the entry of an order staying this action, which includes a stay of any deadlines and/or the disposition of Defendant's Opposition to the Magistrate Judge's

Memorandum and Recommendations, to permit the Parties to pursue mediation and settlement discussions.

Respectfully submitted this 28th day of December, 2020.

By: s/ Nicholas A. Migliaccio

DANIELLE LYNN PERRY
MASON LIETZ & KLINGER, LLP
5101 Wisconsin Ave. NW, Ste. 305
Washington, DC 20016
202-429-2290
Fax: 202-429-2294
dperry@masonllp.com

ROBERT ANDREW SANTILLO
WINEBRAKE & SANTILLO, LLC
715 Twining Road, Suite 211
Dresher, NC 19025
215-884-2491
Fax: 215-884-2492
asantillo@winebrakelaw.com

SCOTT CRISSMAN HARRIS
WHITFIELD BRYSON LLP
900 W. Morgan Street
Raleigh, NC 27603
919-600-5000
Fax: 919-600-5035
scott@whitfieldbryson.com

Nicholas A. Migliaccio
(Admitted *pro hac vice*)
Migliaccio & Rathod LLP
412 H Street N.E., Suite 302
Washington, D.C. 20002
202-470-3520
Fax: 202-800-2730
nmigliaccio@classlawdc.com

Attorneys for Plaintiff

By: s/ Keith M. Weddington

PAUL DECAMP
(Admitted *pro hac vice*)
MAXINE A. ADAMS
(Admitted *pro hac vice*)
EPSTEIN, BECKER & GREEN, P.C.
1227 25th Street, N.W., Suite 700
Washington, D.C. 20037
Tel: 202-861-0900
Fax: 202-861-3571
PDeCamp@ebglaw.com
MAdams@ebglaw.com

KEITH M. WEDDINGTON
N.C. State Bar No. 14352
TORY IAN SUMMEY
N.C. State Bar No. 46437
PARKER POE ADAMS & BERNSTEIN LLP
620 South Tryon Street, Suite 800
Charlotte, North Carolina 28202
Tel: 704-335-9035
Fax: 704-334-4706
keithweddington@parkerpoe.com
torysummey@parkerpoe.com

Attorneys for Defendant